

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO ex rel.,  
State Engineer,

Plaintiff,

vs.

No. 69cv07941-BB-ACE  
RIO CHAMA STREAM SYSTEM  
Section 7

ROMAN ARAGON, et al.,

Defendants.

**MOTION TO SET ASIDE DEFAULT JUDGMENT**

Henry G. Coors moves the Court to set aside a Default Judgment filed October 11, 2004 (docket number 7611) on the grounds that said judgment appears to adjudicate water rights which Petitioner had previously conveyed to the Rutheron Water Association. In support of this Motion, Petitioner would show the Court as follows:

1. In 1988, Petitioner purchased approximately 120 acres of land near Rutheron, New Mexico.
2. On this land, 35.3 acres were irrigated with water rights in SEO file 1545 and 1699.
3. Petitioner subdivided the land, retained the water rights, and built two ponds.
4. Petitioner transferred water rights to two ponds on the property and after a hearing before the SEO, said transfer was approved.
5. Petitioner transferred 10 acre feet of corruptive use water rights to the Rutheron Water Association to provide property within his previously owned lands with domestic water.

6. After a hearing from before the State Engineer, Petitioner was allowed to transfer 10 acre feet to the Rutheron Water Association and Petitioner executed and recorded a deed for said 10 acre feet of water rights to the Rutheron Water Association.

7. The State Engineer now claims that the Default Judgment filed October 11, 2004 cancels the transfer of water rights to Rutheron Water Association.

Concurrence of Opposing Counsel

Movant has consulted Mr. Ed Newville, counsel for the State and has been advised that the State does not oppose the Motion. An approved order is not being submitted herewith at the request of Mr. Newville and it is movant's understanding that the matter must first be submitted to the Special Master for review.

WHEREFORE, Petitioner prays that the Default Judgment entered on October 11, 2004 be set aside and thereafter amended so that the transfer of 10 acre feet of water rights to the Rutheron Water Association can be adjudicated.

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We hereby certify that a copy of the foregoing pleading was sent by the method(s) indicated below to the person(s) and indicated address(es) listed below on the 20<sup>th</sup> day of May, 2005. If by facsimile or email, the transmission was reported as complete and without error.

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